IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Asif Ali, **Kahir Ali,** **And All Others Similarly Situated** **Plaintiffs,** **v.** **R. Master & Sons, Inc. d/b/a Get & Go Food Mart #1; Shadow Oaks, Inc. d/b/a Lindell's Midget Market; Volume, Inc. d/b/a Step N Go; Volume Drive, Inc.; Shaver Street, Inc. d/b/a Raceway #6764; Wood Port, Inc. d/b/a First Stop Food Store; Richey Express, Inc. d/b/a Richey Express; Master Stores Inc.; Pasadena Express Inc. d/b/a Shell Food Mart; Sunset Store, Inc.; Shepperd Trading, Inc.; Tajdin Muhammad Ali; and Shoukat Mohammad Ali** **Defendants.**	)	**Civil Action** **File No.** **JURY DEMANDED**

PLAINTIFFS' ORIGINAL COMPLAINT

Now come Plaintiffs, Asif Ali and Kahir Ali, and all others similarly situated and complain of Defendants 1) R. Master & Sons, Inc. d/b/a Get & Go Food Mart #1; 2) Shadow Oaks, Inc. d/b/a Lindell's Midget Market; 3) Volume, Inc. d/b/a Step N Go; 4) Volume Drive, Inc.; 5) Shaver Street, Inc. d/b/a Raceway #6764; 6) Wood Port, Inc. d/b/a First Stop Food Store; 7) Richey Express, Inc. d/b/a Richey Express; 8) Master Stores Inc.; 9) Pasadena Express Inc. d/b/a Shell Food Mart; 10) Sunset Store, Inc.; 11) Shepperd Trading, Inc.; 12) Tajdin Muhammad Ali; and 13) Shoukat Mohammad Ali (hereinafter collectively referred to as "Defendants") and for cause of action would show the Court as follows:

I.
INTRODUCTION

1. This is a collective action suit to recover unpaid wages and unpaid overtime wages brought under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* and under the Texas Labor Code, Chapter 61 *et seq.*

2. This action seeks equitable relief, compensatory and liquidated damages, attorney's fees, taxable costs of court, and post-judgment interest for Defendants' willful failure to pay overtime pursuant to 29 U.S.C. § 216(b) and wages pursuant to Texas Labor Code, Chapter 61 for Plaintiffs Asif Ali and Kahir Ali, and all others similarly situated, in the course of their employment with the Defendants.

3. The Defendants are collectively an enterprise that own and operate multiple Shell, Chevron, Conoco, Citgo and other branded and un-branded gasoline stations and convenience stores. A majority of the gas stations and convenience stores are located in Harris County and Calhoun County, Texas, and surrounding areas.

4. The above enterprise is funded, owned and operated by and for the benefit of the individual Defendants who are together in partnership.

II.
JURISDICTION AND VENUE

5. Plaintiffs, Asif Ali and Kahir Ali, on behalf of themselves and Members of the Class, bring this action to recover unpaid overtime compensation from the Defendants pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq*.

6. This Court also has jurisdiction of these claims pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367.

7. This Court has supplemental jurisdiction over Texas state law.

8. Venue is proper in the Southern District of Texas under 28 U.S.C. § 1441(a).

III.
PARTIES

9. Plaintiff, **Asif Ali**, is a resident of Harris County, Texas. Plaintiff was an employee of Defendants within the meaning of the FLSA during the three-year period preceding the filing of this complaint. Plaintiff worked as an hourly worker / hourly laborer / store clerk for work-weeks of more than forty hours.

10. Plaintiff, **Kahir Ali**, is a resident of Harris County, Texas. Plaintiff was an employee of Defendants within the meaning of the FLSA during the three-year period preceding the filing of this complaint. Plaintiff worked as an hourly worker / hourly laborer / store clerk for work-weeks of more than forty hours. Mr. Kahir Ali is Mr. Asif Ali's younger brother. Both Plaintiffs are nephews of Defendants Tajdin Muhammad Ali; and Shoukat Mohammad Ali.

11. The **'Members of the Class'** are all current and former non-exempt hourly workers / hourly laborers / store clerks who are or were employed by Defendants during the three-year period preceding the filing of this complaint. Like Messrs. Asif Ali and Kahir Ali, these persons engaged in commerce or in the production of goods for commerce in performing their duties for Defendants.

12. Defendant **R. Master & Sons, Inc. d/b/a Get & Go Food Mart #1** is a validly existing Texas corporation. This Defendant may be served by serving its officer (treasurer), Mr. Tajdin Muhammad Ali, at his residence at 6714 Glenkirk Place, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

13. Defendant **Shadow Oaks, Inc. d/b/a Lindell's Midget Market** is a validly

existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Tajdin Muhammad Ali, at his residence at 6714 Glenkirk Place, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

14. Defendant **Volume, Inc. d/b/a Step N Go** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Tajdin Muhammad Ali, at his residence at 6714 Glenkirk Place, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

15. Defendant **Volume Drive, Inc.** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Tajdin Muhammad Ali, at his residence at 6714 Glenkirk Place, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

16. Defendant **Shaver Street, Inc. d/b/a Raceway #6764** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Tajdin Muhammad Ali, at his residence at 6714 Glenkirk Place, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

17. Defendant **Wood Port, Inc. d/b/a First Stop Food Store** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Shoukat Mohammad Ali, at his residence at 1119 Ivyvine Court, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

18. Defendant **Richey Express, Inc. d/b/a Richey Express** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Shoukat Mohammad Ali, at his residence at 1119 Ivyvine Court, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

19. Defendant **Master Stores Inc.** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Shoukat Mohammad Ali, at his residence at 1119 Ivyvine Court, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

20. Defendant **Pasadena Express Inc. d/b/a Shell Food Mart** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Shoukat Mohammad Ali, at his residence at 1119 Ivyvine Court, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an

employer with respect to the named Plaintiffs and Members of the Class.

21. Defendant **Sunset Store, Inc.** is a validly existing Texas corporation. This Defendant may be served by serving its registered agent, Mr. Shoukat Mohammad Ali, at his residence at 1119 Ivyvine Court, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

22. Defendant **Shepperd Trading, Inc.** is a validly existing Texas corporation. This Defendant may be served by serving its officer (vice president), Mr. Shoukat Mohammad Ali, at his residence at 1119 Ivyvine Court, Sugar Land, Texas 77479. This Defendant is part of an enterprise engaged in commerce or the production of goods for commerce. Furthermore, this Defendant has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

23. Defendant, **Tajdin Muhammad Ali**, is an individual who may be served with process at 6714 Glenkirk Place, Sugar Land, Texas 77479, or wherever else he may be found. Mr. Tajdin Ali is an individual engaged in commerce or the production of goods for commerce. Mr. Tajdin Ali has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

24. Defendant, **Shoukat Mohammad Ali**, is an individual who may be served with process at 1119 Ivyvine Court, Sugar Land, Texas 77479, or wherever else he may be found. Mr. Shoukat Ali is an individual engaged in commerce or the production of goods for commerce. Mr. Shoukat Ali has acted, directly or indirectly, in the interest of an employer with respect to the named Plaintiffs and Members of the Class.

25. Whenever in this complaint it is alleged that any or all of the above named Defendants committed any act or omission, it is meant that Defendants' officers, directors, vice-principals, agents, servants, or employees committed such act or omission and that at the time such act or omission was committed, it was done with the full authorization, ratification or approval of each Defendant or was done in the routine normal course and scope of employment of Defendants' officers, directors, vice-principals, agents, servants, or employees.

IV.
CLASS ALLEGATIONS

26. Plaintiffs Asif Ali and Kahir Ali ("Plaintiffs") file this case as an "opt-in" collective action, as is specifically allowed by 29 U.S.C. § 216(b).

27. The class that Plaintiffs seek to represent may be described as follows:

> **All current and former non-exempt hourly workers / hourly laborers / store clerks who were employed by Defendants during the three-year period preceding the filing of this complaint.**

28. Plaintiffs seek to represent only those Members of the Class who, after appropriate notice of their ability to opt into this action, have given consent in writing to be represented by Plaintiff's counsel as required by 29 U.S.C. § 216(b).

29. Persons that choose to opt-in will be listed on subsequent pleadings and copies of their written consents to sue will be filed with the Court.

30. Plaintiffs contend that this action is appropriate for collective action status because each named Defendant herein has acted in the same manner with regard to all Members of the Class.

V.
FACTS

31. At all times relevant to this action, Defendants have been subject to the

requirements of the FLSA.

32. For purposes of this action, the "relevant period" is defined as such period commencing on the date that is three years prior to the filing of this action, and continuing thereafter.

33. Plaintiffs are siblings, and are both nephews of Defendants Tajdin Muhammad Ali and Shoukat Mohammad Ali. Plaintiffs worked for the Defendants without pay for the entire period of their employment. Defendants desired to pay Plaintiffs with cash, whereas Plaintiffs sought to be compensated with proper paychecks with tax withholdings. For the approximate six-month period Plaintiff Kahir Ali worked for Defendants, and similarly, for the nine-month period Plaintiff Asif Ali worked for Defendants, the parties continued to discuss the issue of form of payment, and Plaintiffs never anticipated that they would not be paid. As such, Plaintiffs continued for work for their uncles for a period of time without pay, believing that they would be eventually be paid. Defendants, however, now refuse to pay, even with cash, the straight-time and overtime wages due Plaintiffs. During the time of their employment, Plaintiffs' father supported Plaintiffs financially.

34. Defendants employed Plaintiff Asif Ali from August 12, 2008 to May 1, 2009, at one of Defendants' gas stations / convenience stores doing business as Raceway #6764 located at 2219 Highway 90, Crosby, Texas 77532.

35. Plaintiff Asif Ali's agreed rate of pay was $10.00 per hour.

36. During his employment, Plaintiff Asif Ali worked for Defendants as an hourly worker / hourly laborer / store clerk ("clerk").

37. Each week during his period of employment, Plaintiff Asif Ali worked the day shift from 6:00 a.m. until 4:00 p.m., seven days a week.

38. Defendants employed Plaintiff Kahir Ali from August 20, 2008 to February 23, 2009, at one of Defendants' gas stations / convenience stores doing business as Raceway #6764 located at 2219 Highway 90, Crosby, Texas 77532.

39. Plaintiff Kahir Ali's agreed rate of pay was $10.00 per hour.

40. During his employment, Plaintiff Kahir Ali worked for Defendants as an hourly worker / hourly laborer / store clerk ("clerk").

41. Each week during his period of employment, Plaintiff Kahir Ali worked the evening shift from 1:00 p.m. until 11:00 p.m., seven days a week.

42. As clerks, Plaintiffs have performed, during a significant period of most days, what was or is otherwise work performed by "hourly" or non-exempt employees because the job required it and Defendants' management demanded it.

43. During all or part of the past three years, while working for the Defendants as clerks, Plaintiffs have been required to work overtime hours in excess of 40 hours during each and every seven-day workweek.

44. During these hours worked, Plaintiffs have performed the function of their job, which included the performance of duties typically performed by "hourly" paid non-exempt employees because the job required it and Defendants' management demanded it.

45. Defendants employ other hourly workers at their multiple Shell, Chevron, Conoco, Citgo and other branded and un-branded gasoline stations and convenience stores.

46. During at least the past three years, all of these hourly workers at all business locations owned and/or operated by the Defendants were routinely required to work in excess of 40 hours per week to perform the function of their job which included the performance of duties otherwise typically performed by "hourly" paid non-exempt employees because the job required

it and Defendants' management demanded it.

47. Defendants required Plaintiffs and all others similarly situated to perform all necessary work to include the performance of those duties otherwise typically performed by "hourly" employees which routinely required Plaintiffs and other similarly situated employees to work "overtime" hours as defined by 29 U.S.C. § 201 *et seq*., for which they were not paid.

VI.
FIRST CLAIM FOR RELIEF
(Unpaid overtime compensation under the FLSA)

48. Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully rewritten herein.

49. Plaintiffs and all others similarly situated are considered non-exempt employees.

50. Plaintiffs, and all others similarly situated are entitled to receive overtime pay for all hours they have worked in excess of 40 during each seven-day workweek.

51. During Plaintiffs' employment, each routinely worked more than 40 hours a week.

52. Defendants did not pay Plaintiffs and all others similarly situated, their earned overtime pay for those hours they worked in excess of 40 per week.

53. Defendants have violated 29 U.S.C. § 201 *et seq*. by failing to pay Plaintiffs and all other similarly situated employees "overtime" pay for all hours worked in excess of 40 hours per week.

54. Defendants have not made a good faith effort to comply with the FLSA, and have thus violated the requirements of the federal statute.

55. Defendants have failed to maintain accurate, contemporaneous, and complete employee records, including the number of hours worked per workweek, by Plaintiffs and by all

other similarly situated employees.

56. Each Defendant's conduct was willful under 29 U.S.C. § 255(a).

57. No exemption excused the Defendants from paying Plaintiffs and all others similarly situated, overtime pay for hours worked over forty per week.

58. Rather, Defendants knowingly, willfully, or with reckless disregard carried out their illegal pattern and practice of not paying overtime compensation due to Plaintiffs and to all others similarly situated.

59. Plaintiffs and all others similarly situated seek an amount of back pay equal to the unpaid overtime compensation from the date they commenced employment for the Defendants until the date of trial, or until the last day of their employment, if earlier.

60. Plaintiffs and all others similarly situated further seek an additional equal amount as liquidated damages, as well as reasonable attorney's fees and costs as provided for by 29 U.S.C. § 216(b), along with post-judgment interest at the highest rate allowed by law.

SECOND CLAIM FOR RELIEF
(Plaintiffs' individual claims for unpaid wages in violation of the Texas Labor Code, Chapter 61)

61. Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully rewritten herein.

62. Even though Plaintiffs were promised to be paid $10.00 per hour, neither received any compensation for all of the months they worked for Defendants.

63. By withholding Plaintiffs' wages earned during their respective periods of employment, Defendants have violated Texas Labor Code, Chapter 61, *et seq*, which specifically requires the employer to pay its employees all of their wages earned.

64. Plaintiffs therefore sue for unpaid wages and all additional damages allowed under the Texas Labor Code, Chapter 61, *et seq*.

VII.
COLLECTIVE ACTION ALLEGATIONS

65. Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully rewritten herein.

66. Other employees have been victimized by Defendants' pattern, practice, and policy that is in violation of the FLSA.

67. Other, similarly situated employees are being denied their lawful wages.

68. Accordingly, each Defendant's pattern and practice of failing to pay the employees' overtime pay (at time and one-half) as required by the FLSA results from Defendants' general application of policies and practices, and does not depend on the personal circumstances of the Members of the Class.

69. Thus, each Plaintiff's experience is typical of the experience of the Members of the Class.

70. The specific job titles or job requirements of the various Members of the Class do not prevent collective treatment.

71. All employees, regardless of their job requirements or rates of pay, who are denied overtime compensation for hours worked in excess of 40 per week, are similarly situated, and although the issue of damages may be individual in character, there is no detraction from the common nucleus of liability facts.

72. All current and former persons employed by Defendants who at any time during the three years prior to the date of filing of this action to the date of judgment who were denied overtime pay for hours worked in excess of forty (40) in any given workweek are properly

included as Members of the Class.

VIII.
ATTORNEY FEES

73. Each and every allegation contained in the foregoing paragraphs is re-alleged as if fully rewritten herein.

74. Plaintiffs, and all others similarly situated, are entitled to recover attorney's fees and costs for bringing this action pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq*.

IX.
JURY DEMAND

75. Plaintiffs, and all others similarly situated, make formal demand for a trial by jury.

X.
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Asif Ali and Kahir Ali, and all others similarly situated respectfully request that upon final hearing, the Court grant Plaintiffs, and all others similarly situated, relief as follows:

a. Declare that Defendants have violated the Fair Labor Standards Act, specifically 29 U.S.C. § 207, by failing to pay Plaintiffs, and all others similarly situated, overtime pay at one and one half times their regular hourly rate for all hours in excess of 40 worked during each seven-day work period.

b. Enjoin Defendants from failing to pay Plaintiffs, and all others similarly situated, at one and one half times their regular hourly rates for all hours in excess of 40 worked in each seven-day work period.

c. Order Defendants to pay Plaintiffs, and all others similarly situated, the difference between what they should have received for overtime hours worked during the relevant period and what they were actually paid, together with an equal amount as liquidated damages.

d. Order Defendants to pay Plaintiffs' unpaid wages and all additional damages allowed under the Texas Labor Code, Chapter 61, *et seq*.

e. Order Defendants to pay Plaintiffs' and all others similarly situated employees' reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

f. Order Defendants to pay post-judgment interest at the highest lawful rate for all amounts, including attorney fees, awarded against the Defendants.

g. Order all further relief, whether legal, equitable or injunctive, as may be necessitated to effectuate full relief to Plaintiffs and to all other similarly situated employees of Defendants.

Respectfully submitted,

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